

**Ex. P**

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

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ELASTICSEARCH, INC., a ) Volume 2  
Delaware corporation, )  
ELASTICSEARCH B.V., a )  
Dutch corporation, )  
 ) Case No.  
Plaintiffs, ) 4:19-cv-05553-YGR  
 )  
vs. )  
 )  
Floragunn GmbH, a German )  
corporation, )  
 )  
Defendant. )  
 )

\*\* HIGHLY CONFIDENTIAL \*\*  
\*\* UNDER PROTECTIVE ORDER \*\*  
\*\* ATTORNEY'S EYES ONLY \*\*

REMOTE VIDEOTAPED DEPOSITION  
OF  
30(b)(6) CORPORATE REPRESENTATIVE  
JOCHEN MICHAEL KRESSIN  
Tuesday, March 9, 2021  
Berlin, Germany

Reported by: B. Suzanne Hull, CSR No. 13495

APPEARANCES

For Plaintiffs: O'Melveny & Myers, LLP  
By MR. DAVID R. EBERHART  
MR. DANIEL LEIGH  
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For Defendant: Kwun Bhansali Lazarus, LLP  
By MR. MICHAEL S. KWUN  
Attorney at Law  
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San Francisco, California 94111  
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The Videographer: Jennifer Williams

The Interpreter: Kathi Stock

Also Present: Martin Walker

1           A. I asked Mr. Saly if he decompiled any X-Pack           18:11:53  
2           sources in order to get code into the Search Guard           18:11:59  
3           code base.           18:12:02  
4           Q. And what did Mr. Saly tell you?           18:12:03  
5           A. Mr. Saly told me that he cannot remember --           18:12:07  
6           no. Sorry. That is not what he told me. He told me           18:12:12  
7           that he hasn't decompiled any Elasticsearch -- no.           18:12:15  
8           Any -- any X-Pack code in order to get to some           18:12:19  
9           information that leads to any Search Guard code.           18:12:24  
10          Q. Did you ever ask --           18:12:31  
11          A. Can I correct my statement because it was --           18:12:35  
12          it was not 100 percent correct.           18:12:38  
13                So Mr. Saly told me that he did not           18:12:39  
14          decompile X-Pack object code. That is actually what           18:12:43  
15          he told me.           18:12:47  
16          Q. Did Mr. Saly ever tell you whether or not he           18:12:48  
17          decompiled Shield object code?           18:12:51  
18          A. Well, when we use the phrase X-Pack,           18:12:54  
19          sometimes it also includes Shield because it is the           18:13:01  
20          predecessor product of -- of -- of X-Pack, but no.           18:13:06  
21          Mr. Saly said that he has not decompiled Shield           18:13:10  
22          object code for any creation of Search Guard, no.           18:13:16  
23          Q. Isn't it a fact that Mr. Saly told you that           18:13:20  
24          he couldn't remember whether he had decompiled any           18:13:24  
25          Shield object code?           18:13:28

1           A. Well, I don't -- I don't remember the exact           18:13:40  
2       words that Mr. Saly used; so he couldn't remember if           18:13:42  
3       he did; so in my opinion sitting here and today,           18:13:46  
4       I think I remember that we talked about that, and           18:13:49  
5       there was no decompilation process going on.           18:13:52

6           Q. Well, that was your conclusion from the           18:13:55  
7       conversation.           18:13:58

8                   But the words Mr. Saly used were that he           18:13:58  
9       couldn't remember decompiling Shield binaries;           18:14:04  
10      correct?           18:14:07

11          A. Well, again, sitting here and today, I don't           18:14:08  
12      know if these were the exact words of Mr. Saly, but           18:14:13  
13      it could -- could be that he used those words.           18:14:16

14          Q. Other than talking to Mr. Saly about           18:14:20  
15      decompilation, did you do anything else to determine           18:14:26  
16      whether the person who had committed the code in           18:14:30  
17      paragraph thirty-eight had reviewed the code in           18:14:34  
18      paragraph thirty-nine of Exhibit 174?           18:14:38

19          A. Well, in my opinion, the only way to review           18:14:42  
20      that code would be by decompiling it and by asking           18:14:51  
21      the question if a decompilation process was going on.           18:14:56  
22      In my opinion, that includes the -- the review part;           18:15:00  
23      so if one didn't decompile, one couldn't review the           18:15:04  
24      code.           18:15:09

25               MR. EBERHART: Could you read back the           18:15:11

1 question, please. 18:15:14

2 (Requested portion of record read.) 18:15:15

3 THE WITNESS: I did not ask this specific 18:15:33

4 question if the person reviewed the code that is -- 18:15:35

5 that is mentioned here. I asked a broader question 18:15:39

6 if there was decompilation or not -- or not. 18:15:42

7 BY MR. EBERHART: 18:15:46

8 Q. Is Mr. Saly the person who committed the 18:15:50

9 code in paragraph thirty-eight of Exhibit 174? 18:15:54

10 A. Yes. 18:15:58

11 Q. Other than asking the broader question about 18:15:58

12 decompilation, did you ask Mr. Saly any other 18:16:12

13 questions -- withdrawn. 18:16:18

14 Other than asking the broad question about 18:16:20

15 decompilation to Mr. Saly, did you do anything else 18:16:23

16 to determine whether he had reviewed the code in 18:16:26

17 Exhibit 39 before committing the code in Exhibit 38 18:16:26

18 [sic]? 18:16:34

19 A. Apart from asking him the question if he had 18:16:34

20 reviewed the code, there was nothing more that I did 18:16:37

21 to determine that because, in my opinion, it is -- it 18:16:45

22 is not -- not possible without decompiling code. 18:16:49

23 Q. Taking a look at exhibit -- or sorry. 18:16:54

24 Paragraph forty-one, please. 18:16:59

25 A. Yes. 18:17:08

1 Your code is open, but Elastic's code is also open; 19:48:44  
2 so so what? 19:48:49  
3 Q. You go on -- as part of that paragraph you 19:48:50  
4 wrote: 19:48:55  
5 "We will know which features they are 19:48:56  
6 working on currently, how certain things are 19:49:00  
7 implemented concept wise, and where they plan 19:49:02  
8 to take X-Pack next." 19:49:05  
9 Correct? 19:49:06  
10 A. Correct. 19:49:07  
11 Q. And you wrote that because you meant that 19:49:08  
12 floragunn would be able to review the X-Pack code to 19:49:10  
13 determine the answers to those questions; correct? 19:49:14  
14 A. No. 19:49:19  
15 I basically meant that with the opening of 19:49:19  
16 the -- of the X-Pack code, it was not just opening 19:49:22  
17 the X-Pack code. But also mentioned in the -- in the 19:49:26  
18 blog post, I think in that one -- or in one of the 19:49:32  
19 blog posts -- sorry -- regarding opening the X-Pack 19:49:34  
20 code there was also the statement that opening the 19:49:38  
21 X-Pack code would lead to developing new features in 19:49:41  
22 the public rather than -- well, how do you call it? 19:49:47  
23 In private. And that refers mainly to the GitHub 19:49:56  
24 issues that were connected, a part of the X-Pack -- 19:50:00  
25 I'm sorry. Of -- of the now-combined repository 19:50:09

1 containing the -- sorry. The Apache 2 license and 19:50:12  
2 the X-Pack code. 19:50:16  
3 So what I meant with that phrase or that 19:50:17  
4 sentence is that it is not only opening the actual 19:50:20  
5 code. It is also opening the issues on GitHub. 19:50:25  
6 Those have also been made available. 19:50:31  
7 Q. And you write: 19:50:34  
8 "For example, we would have noticed 19:50:41  
9 early on they were working on SAML." 19:50:44  
10 Correct? 19:50:46  
11 A. Correct. 19:50:47  
12 Q. And what is SAML? 19:50:47  
13 A. SAML is a -- it is an authentication 19:50:49  
14 standard and -- authentication and authorization 19:50:57  
15 standard that is based on XML. And it is used mainly 19:51:00  
16 for implementing single sign-on. And it is an 19:51:08  
17 industry standard. 19:51:17  
18 Q. And by that sentence you meant that had the 19:51:17  
19 X-Pack code been open, floragunn would have noticed 19:51:21  
20 early on that Elastic was working on SAML; correct? 19:51:24  
21 MR. KWUN: Objection. Misstates prior 19:51:28  
22 testimony. 19:51:30  
23 THE WITNESS: So I was -- I was referring to 19:51:32  
24 if the issues on GitHub are now open, there would 19:51:35  
25 have been and -- most probably there would have been 19:51:39



1 an issue or ticket, or whatever one wants to call it, 19:51:43  
2 talking about SAML implementation. 19:51:47  
3 And the reason why I am referring explicitly 19:51:50  
4 to SAML in that particular case is that we have been 19:51:54  
5 working on SAML support for quite -- quite some time. 19:51:57  
6 And then at the -- at one of the -- the Elasticons 19:52:03  
7 that I -- that I attended, they said that the next 19:52:09  
8 version of X-Pack -- I don't remember which exact 19:52:14  
9 version that was, but it was before the X-Pack code 19:52:19  
10 was made open -- will also contain SAML support; so 19:52:22  
11 we were working on it. And at the same time it -- by 19:52:27  
12 that -- by that statement at the Elasticon, it seemed 19:52:32  
13 to me that Elastic was working on that -- on that as 19:52:35  
14 well. 19:52:38  
15 And while we thought that it would be -- it 19:52:40  
16 would be kind of helpful for us, you know, to bring 19:52:43  
17 out a fresh new feature to -- to Search Guard, it 19:52:47  
18 was, to me, well, interesting to hear that this will, 19:52:51  
19 you know, already come in one of the next versions of 19:52:57  
20 X-Pack. 19:53:00  
21 MR. EBERHART: Why don't we take a short 19:53:19  
22 break. 19:53:22  
23 MR. KWUN: Sounds good. 19:53:22  
24 THE VIDEOGRAPHER: We're going off the 19:53:25  
25 record. 19:53:26

1 STATE OF CALIFORNIA )  
 ) ss.

2 COUNTY OF KERN )  
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5 I, B. Suzanne Hull, a Certified Shorthand  
6 Reporter in the State of California, holding  
7 Certificate Number 13495, do hereby certify that  
8 JOCHEN MICHAEL KRESSIN, the witness named in the  
9 foregoing deposition, was by me duly sworn; that said  
10 deposition, was taken Tuesday, March 9, 2021, at the  
11 time and place set forth on the first page hereof.

12 That upon the taking of the deposition, the  
13 words of the witness were written down by me in  
14 stenotypy and thereafter transcribed by computer  
15 under my supervision; that the foregoing is a true  
16 and correct transcript of the testimony given by the  
17 witness.

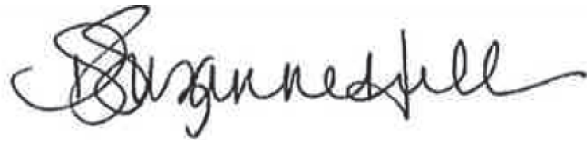
18 Pursuant to Federal Rule 30(e), transcript  
19 review was requested.

20 I further certify that I am neither counsel  
21 for nor in any way related to any party to said  
22 action, nor in any way interested in the result or  
23 outcome thereof.

24 ///

25 ///

1 Dated this 13th day of March, 2021, at  
2 Bakersfield, California.

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5 B. Suzanne Hull, CSR No. 13495  
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